

REMARKS

Claims 15 and 31 have been amended. No new matter has been added.

Rejections under 35 U.S.C. § 112

Claims 15-45 were rejected under 35 U.S.C. § 112, 2nd paragraph, as being indefinite. Specifically, the Office Action asserts that the use of the phrase "a dispenser, the dispenser exerting a dispensing force" in Claims 15 and 31 is unclear.

The rejection of the claims under 35 U.S.C. § 112, 2nd paragraph has been obviated by appropriate amendment. Claims 15 and 31 have been amended to recite the dispensing force as a combined characteristic of the dispenser and wet wipes. The term "dispensing force" and its relationship to a dispenser and wet wipes are adequately described in the specification. The definition of "dispensing force" is given as:

... the force to pull the wet wipes from the dispenser.
[page 21, lines 27-28]

The remainder of this paragraph in the specification, from page 21, line 28 to page 22, line 8, details the measurement of the dispensing force for a dispenser containing wet wipes. The specification also notes, among other things, that it is desirable for the dispensing force to be:

... considerably less than the detach force for a roll of perforated wipes. In this way it is assured that the wipes will be able to be pulled from, or removed from, the dispenser without inadvertently breaking the perforation.
[page 27, lines 2-10]

Given this definition and description of the dispensing force, it is clear that this parameter is a characteristic of a dispenser and wet wipes. The dispenser contributes to this force through any contact between the dispenser and the wet wipes. For example, contact between the wet wipes and the cover of the dispenser, between the wet wipes and a wiper or wiper blade, and/or between the wet wipes and the tray can

contribute to the dispensing force (see for example p. 13, lines 1-14 and p. 29, line 22 through p. 30, line 6). In addition, the peel force of the wet wipes can also contribute to the dispensing force (see for example p. 21, lines 11-26; p. 27, lines 11-16; and Claim 22).

In view of the amendments and remarks presented above, Applicants assert that all of the presently presented claims fully meet the requirements of 35 U.S.C. § 112, 2nd paragraph and request that this rejection be withdrawn.

Rejections under 35 U.S.C. § 102

Claims 15, 28, 30-32, 34 and 35 were rejected under 35 U.S.C. § 102(b) over Hoffmann (U.S. Pat. No. 3,592,161). The Office Action asserts that Hoffmann discloses a dispensing system for wet wipes comprising a dispenser exerting a dispensing force, a gap allowing for the dispensing of wet wipes, and a roll of wet wipes having the claimed configuration and properties.

The rejection of the claims under 35 U.S.C. § 102(b) is respectfully traversed. Applicants point out that Hoffmann does not teach or suggest each and every element of Claims 15, 28, 30-32, 34 and 35. In particular, Hoffmann does not teach or suggest a gap allowing for the dispensing of wet wipes. The gap as recited in Claims 15 and 31 is described in the specification, for example on page 9, lines 16-18 and Figures 1A, 1B and 1E, as a space within the dispenser through which wet wipes can be removed. Figures 1A, 1B and 1E, illustrating gap 7, are reproduced on the next page for ease of reference. This gap allowing the dispensing of wet wipes can present certain challenges to the storage of wet wipes and the dispensing of wet wipes. See, for example, page 12, lines 10-12; page 17, lines 4-7; page 28, lines 18-21 and 25-29; and page 30, lines 1-3.

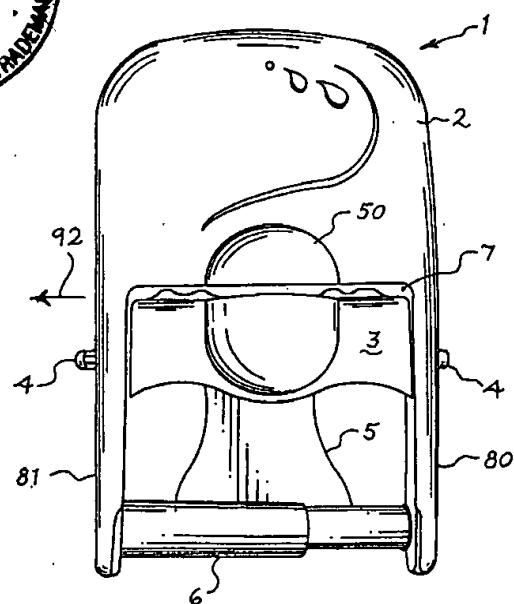
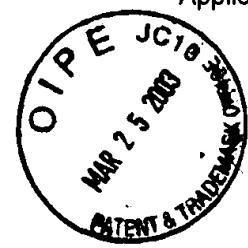


Fig. 1A

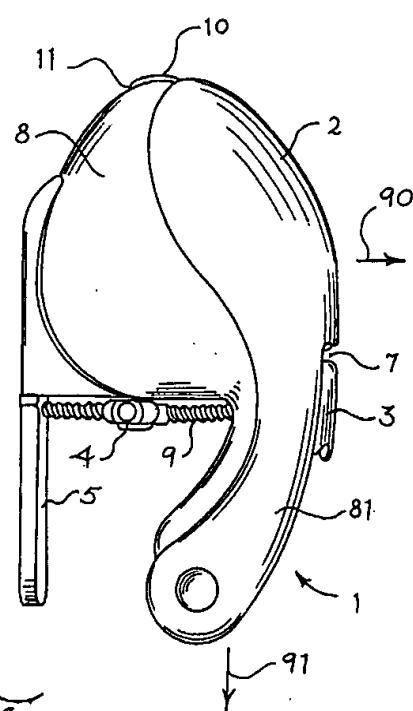


Fig. 1B

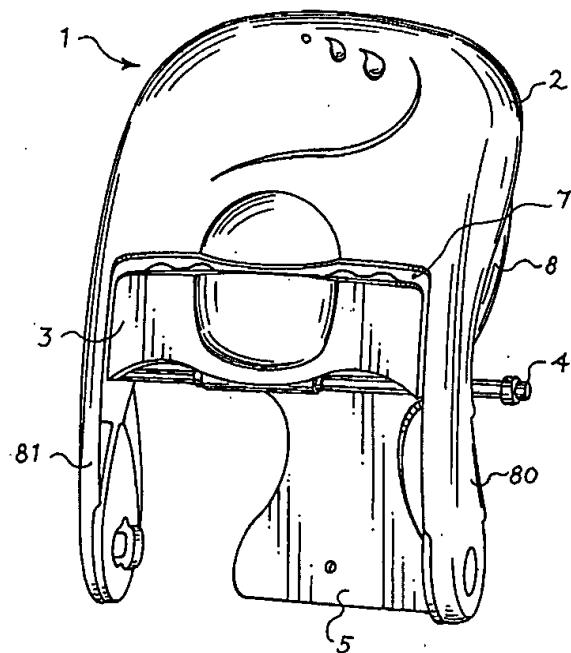


Fig. 1E

In contrast, Hoffmann does not teach or suggest a space or a gap. The drawing elements 10 and 11 of Hoffmann, with which the Office Action correlates Applicants' gap, are described in Hoffmann as a lower lip and an upper lip respectively [col. 2, lines 54-62]. Hoffmann describes these structures as follows:

... the upper lip **11** and lower lip **10** converge and press the excess wetting liquid out of the body cleaning tissue causing it to drain to the inside and into the reservoir. [col. 2, lines 59-62]

Thus, Hoffmann describes a "squeegee" system in which the wetted tissue is nipped between the upper and lower lips. This is precisely the opposite structure and function of the gap as claimed by Applicants.

Moreover, Hoffmann does not teach or suggest the claimed relationships between the properties of wet wipes and the dispensing force. Claim 15 recites that the tensile strength of the wet wipes is at least twice as large as the dispensing force. The description of the tensile strength of wet wipes and of the relationship between the tensile strength and the dispensing force are given at least on page 19, lines 5-19; on page 21, lines 5-6; in Tables I and II; and on page 29, line 22 through page 30, line 6. Wipes having a tensile strength greater than the dispensing force (i.e. at least twice as large) can be pulled from the dispenser through the gap without inadvertently breaking the wipe. Thus, a wet wipe of the desired length can be removed by the user.

Claim 31 recites that the detach strength of perforated wet wipes is at least twice as large as the dispensing force. The description of the detach strength perforated wet wipes and of the relationship between the detach strength and the dispensing force are given at least on page 19, line 20 through page 20, line 3; in Table I; and on page 27, lines 3-5; and on page 29, line 22 through page 30, line 6. Wipes having a detach strength greater than the dispensing force (i.e. at least twice as large) can likewise be pulled from the dispenser through the gap without inadvertently breaking the wet wipe.

Hoffmann does not teach or suggest, nor does the Office Action point out where Hoffmann might teach or suggest, either a wet wipe tensile strength that is twice that of the dispensing force or a perforated wet wipe detach strength that is twice that of the dispensing force. Hoffmann does not disclose anything related to the physical

properties of wetted toilet tissue. Hoffmann also does not disclose or teach anything related to protecting wetted toilet tissue from inadvertent breakage during dispensing. For Claim 31 in particular, Hoffmann does not teach or suggest perforated wet wipes at all. Accordingly, Claims 15, 28, 30-32, 34 and 35 are not anticipated by Hoffmann, as the reference does not teach or suggest each and every element of the claims.

Rejections under 35 U.S.C. § 103

Claims 16-27 and 36-45 were rejected under 35 U.S.C. § 103(a) over Hoffmann, and Claims 29 and 33 were rejected under 35 U.S.C. § 103(a) over Hoffmann in view of Mitchell (U.S. Pat. No. 5,620,148). For Claims 16-27 and 36-45, the Office Action asserts that the dimensions of the wet wipes would have been an obvious matter of design choice, routine experimentation and optimization. For Claims 29 and 33, the Office Action asserts that it would have been obvious to combine the dispenser of Hoffmann with a coreless roll as described in Mitchell.

The rejection of the claims under 35 U.S.C. § 103(a) is respectfully traversed. The applied references, alone or in combination, fail to provide each and every element of the claims. The references do not teach or suggest a gap as recited in independent Claims 15 and 31. In addition, the references do not teach or suggest wet wipes having a tensile strength twice that of the dispensing force as recited in Claim 15, nor do the references teach or suggest perforated wet wipes having a detach strength twice that of the dispensing force as recited in Claim 31. For Claims 16-27 and 36-45, the lack of any of these teachings or suggestions in Hoffmann has been discussed above. For Claims 29 and 33, Mitchell does not teach or suggest, nor does the Office Action assert that Mitchell teaches or suggests, a gap as recited in Claims 15 and 31, wet wipes having a tensile strength twice that of the dispensing force as recited in Claim 15, or perforated wet wipes having a detach strength twice that of the dispensing force as recited in Claim 31. Accordingly, claims 16-27, 29, 33 and 36-45 are not obvious over Hoffmann or Mitchell, alone or in combination.

Moreover, Applicants respectfully point out that the Office Action has failed to provide a proper motivation or suggestion to modify the dispenser of Hoffmann. The

only sign of such motivation appears to be the blanket statement that all the recitations of Claims 16-27 and 36-45 are an "obvious matter of design choice, as determined through routine experimentation and optimization." However, as noted in MPEP 2143.01, with reference to *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993):

A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is **not sufficient** to establish a *prima facie* case of obviousness without some **objective reason to combine** the teachings of the references. [Bold emphasis added]

Thus, the conclusory statement of obviousness "to one of ordinary skill in the art" would be insufficient to establish a *prima facie* case of obviousness under 35 U.S.C. § 103, even if the applied references disclosed each and every element of the claims.

In conclusion, all of the grounds raised in the outstanding Office Action for rejecting the application are believed to be overcome or rendered moot based on the remarks above. Thus, it is respectfully submitted that all of the presently presented claims are in form for allowance, and such action is requested in due course.

Also submitted at this time is a Petition for Extension of Time for one (1) month.

Respectfully submitted,

3/21/03



Jonathan P. Taylor, Ph.D.
Registration No. 48,338
Agent for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200